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For The Northern Mariana Islands
By _____
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**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF THE NORTHERN MARIANA ISLANDS**

ANGELITO TRINIDAD, et al.,

Plaintiffs,

vs.

JOHN S. PANGELINAN, et al.,

Defendants

CIVIL ACTION NO. 97-0073

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' RESPONSE
TO SUA SPONTE ORDER
TO SHOW CAUSE**

The Plaintiffs renew their argument made at the August 19, 2006 hearing,
that John Pangelinan's execution and recording of the two deeds on the eve of the
second scheduled sale of E.A. 222, runs afoul of the court's Temporary
Restraining Order in effect on July 27, 2006, which was issued pursuant to the

1 court's order of the execution and judicial sale of the lot. *See* Order Granting
2 Motion for Temporary Restraining Order (June 29, 2006); Amended Order
3 granting Writ of Execution (Mar. 8, 2006) and Order Granting Writ of Execution
4 (Jan. 27, 2006).

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6 Contrary to Defendant's assertion, the court has inherent authority to issue
7 sua sponte an order to show cause within the context of the execution process. *See*
8 18 U.S.C. § 401(3) (1988) ("A court of the United States shall have power to
9 punish . . . at its discretion, such contempt of its authority . . . as disobedience or
10 resistance to its lawful writ, process, order, rule, decree, or command."); *see also*
11 *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 193-194 (1949).

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13 The ultimate control over the execution process lies with the court. *See*,
14 *Markofski v. Yanks*, 146 A. 569, 570 (1929). It alone has the oversight
15 responsibility to ensure that the execution process is not abused. *See Unity Sav.*
16 *Ass'n v. American Urban Sciences Foundation Inc.*, 487 A.2d 356, 359 (1984).
17 In connection with that responsibility, the court necessarily possesses the authority
18 to enforce compliance with its orders issued during the course of the execution
19 proceedings.

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21 When facts such as those contained in the exhibits are brought to the court's
22 attention, it is proper for the court to issue the order to show for contempt of court
23 against Pangelinan. The suspicious timing of the recording of the deeds to his

1 sons on the 11th hour before the second judicial sale took place on July 28, 2006,
2 strongly points to Pangelinan's obvious attempt to effectuate a fraudulent
3 conveyance and place the property way out of the reach of the plaintiffs and the
4 successful bidder at the sale. Had those deeds been recorded before the writ
5 issued, they would have served as notice to the public of what title will pass at the
6 sale. In authorizing the sale, court specifically referred to a preliminary title report
7 which showed that Pangelinan as late as September 2005 had the entire right, title
8 and interest to the property. *See* Order Amending Writ of Execution at 3 (Mar. 8,
9 2006). Far from disclaiming ownership as he does now, Pangelinan argued then,
10 as would a typical landowner, that the property is statutorily exempt because he
11 was receiving income from the property. He should be judicially estopped from
12 claiming otherwise. *See Haley v. Dow Lewis Motors, Inc.* 5 Cal. Rptr. 2d 352, 360
13 (1999).
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19 Failing to persuade the court at the January 26, 2006 hearing and realizing
20 that he had no defenses against the execution and sale of E.A. 222, Pangelinan
21 engaged in extreme conduct of harassment, intimidation and obstruction. All to
22 familiar with Pangelinan's tactics, the court granted Plaintiffs' motion for
23 Temporary Restraining Order ("TRO") which was later converted into a
24 permanent order. *See* Order Granting Motion for Temporary Restraining Order
25 (June 29, 2006); Order Granting Motion for Permanent Injunction (August 2,
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28

1 2006).

2 In effect at the time of the recording of the deeds, the TRO restrains
3 Pangelinan and others from "impeding or interfering with the levy on and judicial
4 sale of E.A. 222, acquisition of the property, subsequent occupancy, transfer, quiet
5 enjoyment or other use" pending the final hearing on the request for permanent
6 injunctive relief. *See* TRO at 4.

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8 Undeterred by the TRO, Pangelinan proceeded with executing and causing
9 the following deeds to be recorded: (1) a Confirmation Deed "confirming" the
10 transfer of a life estate to his son Christopher pursuant to an alleged unrecorded
11 deed made on January 3, 1994; and (2) a Quitclaim deed purportedly to convey a
12 remainderman estate to his son Carlo. *See* Exs. "B" and "C" attached to Plaintiffs'
13 Motion for an Order to Show Cause for Contempt of Court. As asserted, the
14 suspicious timing of the recording strongly indicates that the deeds were
15 fraudulently made with the sole purpose of sabotaging the entire execution and
16 sale process. The execution and recording of the deeds constitutes the ultimate act
17 of interference well within the ambit of the conduct proscribed in the TRO. There
18 is no question John Pangelinan did so with full knowledge of the TRO. He should
19 be held in contempt of court.

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21 As to Christopher's and Carlo's ostensible claim to E.A. 222, if any, the
22 Plaintiffs recorded their Judgment Lien which attached upon recordation. If they
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1 have any claims, it would be up to them to file the appropriate action in another
2 forum or venue to determine their interest if any. Christopher's unrecorded deed
3 purported made on January 3, 1994 was not perfected nor attached at the time that
4 the Plaintiffs recorded their notice of judgment lien on May 9, 2000. What is
5 more, Defendant John Pangelinan recorded or caused to be recorded the deeds and
6 failed to record them before the Judgment Lien. But this discussion is perhaps
7 academic given the Court's Writ of Execution and TRO/ Permanent Injunction
8 against John S. Pangelinan which he has violated.

9 The court has the inherent authority to fashion a remedy to punish
10 contumacious conduct as deemed appropriate given the circumstances. *Falstaff*
11 *Brewing Corp. V. Miller Brewing Co.*, 702 F.2d 770, 774 (9th Cir. 1983). As we
12 have stated before, judicial process holds little, if any, meaning to John
13 Pangelinan, and even the sanction of imprisonment carries with it little, if any,
14 deterrence.¹ Given the unique circumstances giving rise to this order to show
15 cause, the most appropriate remedy would be for the court to order as follows:

- 16 1. Find John Pangelinan in contempt of court.
- 17 2. As punishment and to enforce the Writ of Execution/ TRO, set aside and

18 ¹ See, e.g., exhibits "A" and "B" attached to Combined Response and Motion for Temporary Restraining Order
19 and Permanent Injunctive Relief – letter dated March 30, 2004 from John S. Pangelinan to N. Horiguchi and Mr. Yagi
20 threatening reprisals; letter dated February 1, 2006 from John S. Pangelinan to Lillian A. Tenorio threatening reprisals,
21 attached to the Declaration of Lillian A. Tenorio as Exhibit "B."

1 declare null and void the Confirmation Deed and the Quitclaim Deed that John S.
2 Pangelinan executed and caused to be filed at the Commonwealth Recorder's
3 Office on July 27, 2006. Let Christopher or Carlo Pangelinan bring whatever
4 claims they have against their father as a consequence thereof.
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8 Respectfully submitted this 25th day of September, 2006.
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11 /s/
12 LILLIAN ADA TENORIO, ESQ.
13 Attorney for plaintiffs Angelito
14 Trinidad, Esperanza David, Herman
15 Tejada, Ronnie Palermino, and Tony
16 Alovera
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